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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,562	03/29/2001	Gilbert Bloch	82017-3700	4962

7590 07/07/2003

WINSTON & STRAWN
200 Park Avenue
New York, NY 10166-4193

EXAMINER

ZIRKER, DANIEL R

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 07/07/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-14

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 5/23/03
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 16-30 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 16-30 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 16-30 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, as has been previously noted, applicant's claims are directed to a paper-plastic film laminate, instead of a pressure sensitive sealing tape which is believed to be considerably narrower than what the present claims define. Accordingly, it is suggested that applicant reinsert this or suitable similar language into the claim 16 preamble. Additionally, in claim 16, lines 5-6 "said pressure sensitive adhesive" lacks earlier antecedent basis in the claims. Finally, it is suggested that the word "item" in claims 16 and 17 should be more properly characterized as a --substrate--, or similar language thereto.

3. Claims 16-30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over either Williams -877 or Williams -971, each taken in view of Ohno et al., substantially for reasons of record, together with the following additional observations. The Examiner initially makes the observation that the Finestone et al. patent has been removed as a reference showing the state of the art in view of applicant's showing in the cited references which accompany his latest action. However, the Examiner further

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notes that applicant's contention (Response, page 5, top; page 6, first complete paragraph) fails to disclose any objective evidence on the record for what constitutes a "cold lamination" form of bond and the resulting properties of the articles which have been treated by such cold lamination steps. That is, such arguments as those points set forth at page 6 of his response are supported by no objective evidence other than mere attorney's arguments. Additionally, with respect to his remarks (page 8, second complete paragraph) that in essence involve a product-by-process argument relating to the particular order of the cold lamination process ~~is~~^{are} neither reflected in applicant's article claims nor has been shown on the record to produce a patentably distinct article. With respect to the references, it is noted that applicant appears to argue the references individually, instead of the fact that they have been taken in combination. Finally with respect to applicant's contention (Response, page 9) that the Williams patents and the Ohno et al. patent are "non-analogous art", the Examiner respectfully submits that both references are taken from the art of multilayer adhesive tapes, and a clear reason for modifying the primary references in view of the Ohno et al. patent with respect to the use of corona discharge treatment has both been set forth, and is also believed to be well within the ordinary skill of the art, in the absence

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of unexpected results. In summary, applicant has failed to rebut the prima facie case of record.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (703) 308-0031. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for this Group is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Dzirker:cdc

July 2, 2003

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP 1900-

1700

Daniel Zinker